ISSUE DATE: June 26, 1996

DOCKET NO. E-001/GR-95-601

ORDER DENYING RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs	Chair
Tom Burton	Commissioner
Marshall Johnson	Commissioner
Dee Knaak	Commissioner
Don Storm	Commissioner

In the Matter of the Application of Interstate Power Company for Authority to Increase its Rates for Electric Service in the State of Minnesota

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PROCEDURAL HISTORY

On April 8, 1996, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in the Interstate Power Company (Interstate or the Company) general rate case. In this Order, the Commission modified and accepted the Settlement Agreement signed by the parties. The Commission made two modifications to the proposed settlement, as follows:
(1) a modification to the Conservation Improvement Program (CIP) tracker amortization, and
(2) a modification to the treatment of customer charges.

Also as part of the Order, the Commission issued findings on the four issues that were not resolved by the settlement, as follows: (1) purchased power contracts, (2) return on equity, (3) interruptible discount, and (4) declining block rates.

On April 29, 1996, Interstate filed a petition for reconsideration. In its petition, Interstate requested that the Commission grant rehearing and reconsideration on two issues: 1) purchased power contracts and 2) customer charges.

Also on April 29, 1996, the Department filed a petition for reconsideration, requesting rehearing and reconsideration on the issues of 1) customer charges and 2) declining block rates.

On May 9, 1996 in replies to the petitions for reconsideration, the Department and the Company each supported the other's position on the issue of customer charges. The Company did not support the Department's request that the Commission reconsider its decision on declining block rates. The Company argued that the Commission's decision regarding declining block rates is amply supported in the record and need not be reconsidered. In its Reply, the Department opposed Interstate's petition regarding the capacity purchase issue, arguing that Interstate's arguments on this issue are not supported by the record and do not correctly reflect the analysis undertaken by the Commission in concluding that Interstate's

system has excess capacity.

On June 13, 1996, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

The Commission has carefully reviewed the petitioners' filings and considered their oral arguments. The Commission declines to grant the petitions for reconsideration. The petitioners have failed to raise new arguments that substantially impact the decisions made by the Commission in its initial Order. Only one of the decisions questioned will receive further comment.

Long-Term Purchased Power Contracts

In its April 8, 1996 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in this matter, the Commission found that disallowance of 100 MW of purchased power as excess capacity was conservative and amply warranted under several rationales which the Commission explained at pages 16-20 of the Order. In addition, the Commission noted that this disallowance would leave the Company with a 19.3 percent reserve margin above the new system peak demand. The Commission explained how it calculated the percentage of reserve margin and explained how it concluded that this amount of margin was within the range of reasonableness.

Interstate requested reconsideration of the Commission's decisions on this issue. Having reviewed the Company's arguments, the Commission finds no reason to alter its decision to disallow 100 MW of purchased power as excess capacity.

Interstate contested many elements of the Commission's reasoning, as follows:

The 1,011 MW Peak: The Company asserted that the 1,011 MW peak that the Company experienced in 1995 was closer to normal rather than abnormally high as the Commission had concluded. The Commission finds that the record supports its conclusion that the summer of 1995 was abnormally hot, thereby driving the peak upwards to the new high. Moreover, it is unclear where Interstate wanted to go with that objection since the Commission accepted the 1995 peak (1,011 MW) as the Company's new peak for purposes of beginning its calculations of how much, if any, of the Company's capacity should be considered excess.

Interstate asserted that the Commission ignored the Company's obligation to serve even in hot weather and charged that the Commission ignored the actual 1,011 MW peak in considering a reasonable reserve. However, no such ignoring occurred since, as noted above, the Commission accepted the 1995 peak (1,011 MW) as the Company's new peak for purposes of beginning its calculations of how much, if any, of the Company's capacity should be considered excess.

Likelihood of 1,011 MW Peak Recurring or that Load Growth Will Eclipse the 1,011 MW Peak : Interstate stated that it did not agree that the record supports the Commission's conclusion that it was unlikely that the 1,011 MW peak would be reached again within the years the rates adopted in the Order will be in effect. However, Interstate's own forecast, which does not project a peak load above 1,011 until 1999, supplies adequate record support for the Commission's conclusion on that point. The Company's suggestion on reconsideration that its future load growth will surpass the 1,011 MW mark is contradicted by its own forecast, as noted above, and supported by no other record evidence. In light of this record, it appears that the Company's interest is amply protected by the Commission's use of the 1,011 MW figure as the starting point for calculating how much, if any, of the Company's capacity should be considered excess.

In short, while attacking the Commission's observation that the increased demand causing the 1995 peak appears to be weather-driven, Interstate has failed to show what it needs to show, i.e. that the new peak is due to systemic load growth and that there is a reasonable basis to conclude that the Company will exceed its new peak system demand in any significant fashion in the foreseeable future to warrant the size of reserve that it seeks.

Credit for Doing DSM: Interstate alleged that in determining a proper level of excess capacity the Commission did not give it adequate credit for its DSM efforts. The Commission continues to believe, as the Administrative Law Judge (ALJ) also found, that the Company is required to make such efforts in any case and to give the Company a "break" in calculating excess capacity because of good work done in another area would simply cancel out any ratepayer benefit stemming from such efforts and, in effect, transfer the benefit to the Company.

The Previous Reserve Margin: Interstate argued that the Commission must explain why a 17 percent reserve margin is now acceptable when the Commission found a 22 percent reserve margin appropriate in the Company's last rate case.

First: the Commission clarifies that the actual reserve margin percentage resulting from the Commission's disallowance of 100 MW in the current case is 19.3 percent, as noted by the Commission on page 18 of its ORDER. The Commission fully explained its calculation of that figure in its ORDER and finds, upon rechecking, that it is correct.

Second: the Commission reiterates that reserve margins have no precedential value and must be evaluated in each case based on the conditions existing at the time. The Commission's Order clearly indicates that the Commission did not ignore the 22 percent reserve margin resulting in the previous case but simply gave it its proper weight.[1]

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[1] The reserve margin found in Interstate's previous case can be used for comparative purposes only in the roughest sense. It cannot serve as a starting point or as a presumptively appropriate figure for the Company's current rate case, as urged by the Company, because the Commission's analysis in neither this nor the previous case began

Third: the Commission explained in some detail the calculation that led to the reserve margin in this case. The Commission notes that the Company did not indicate any flaw in the Commission's logic or calculations.

The ALJ's Calculation: Interstate asserted that it was improper for the Commission to point out that the ALJ's analysis of the issue was similar to the Commission's and that but for a minor math error, would have produced a reserve margin identical to the Commission's, 19.3 percent. The Commission's reason for doing so, of course, is that whenever the Commission disagrees with the ALJ, the Commission explains why. In this case, the Commission simply explained that the difference in disallowance amounts and reserve margin figures between the Commission and the ALJ was not due to a different judgment or analysis, but due to a simple math error.

Adequacy of MW Reserve: Interstate alleged that the Commission was arbitrary in concluding that a 43 MW reserve [over and above the 15 percent or 155 MW reserve required by Mid-Continent Area Power Pool (MAPP) was adequate. The Commission has reviewed the explanation of its decision in this regard in the Order and finds that it is thorough and clear. The decision fairly compensates the Company while protecting ratepayers from paying for capacity whose usefulness has not been established.

From another perspective: in its Order, the Commission has authorized the Company to recover in rates the costs of maintaining a total reserve of 198 MW (the MAPP Reserve of 155 MW plus the 43 MW additional reserve.) This is above and beyond recovery of the costs required to maintain the capacity to meet the 1995 peak of 1,011 MW which the Company's own forecasts indicates will not be duplicated until 1999. As such, Interstate has capacity (costs to maintain which are recovered in rates) to meet a 198 MW increase in customer demand over the 1995 peak. So, if the 1995 peak were reached and exceeded by 184 MW

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calculating the excess capacity by establishing a reasonable reserve margin for reliability purposes and proceeding on that basis. Moreover, the reasonableness of a reserve margin is not a given, but depends on the likelihood that demand will exceed the peak. To illustrate: in Case 1, Utility A shows that demand is very likely to grow substantially beyond the established peak while in Case 2, by contrast, Utility B establishes the likelihood that demand will not exceed the established peak. In these circumstances, the reserve margin appropriate for Utility A likely will far exceed the reserve margin appropriate for Utility B, regardless of whether each were allowed the identical reserve margins in their previous rate cases. Finally, the Commission notes, for what it's worth, that the reserve margin resulting from the Commission's disallowance of 100 MW (19.3 percent) in this case happens to be closer to the 22 percent figure resulting in the previous case than the reserve margins resulting if the Company's two proposals were accepted: 1) allowance of all the costs associated with its three long-term purchased power contracts would result in a 29.2 percent reserve margin and 2) disallowance of only 33 MW would leave the Company with a reserve margin of 25.9 percent.

(double the 92 MW increase in demand experienced between 1992 and 1995)[2] for a total demand of 1,195 MW, the Company would still not lack ratepayer-paid-for capacity to meet that demand. In this context as well, then, the Company's request for authority to recover the cost of even more capacity (the additional 100 MW capacity that the Commission has disallowed) is unreasonable.

Burden of Proof: Throughout its request for reconsideration runs the complaint that the Commission failed to explain to the Company's satisfaction why a 100 MW disallowance is appropriate, why the resulting reserve margin is sufficient, etc. Interstate appears to lose sight of who has the burden of proof with respect to these issues. Before a monopoly utility is entitled to recover costs from its ratepayers, it must show that the costs were prudently incurred and necessary to the provision of utility service. Moreover, since it has been found previously that Interstate entered into three long term power purchase contracts imprudently, the Company has had specific notice of its burden to show the usefulness to ratepayers of any costs it seeks to recover from ratepayers in relation to those contracts. In these circumstances, the Company's insistence that the Commission has not persuaded it (the Company) of the appropriateness of disallowing 100 MW costs is out of synch.

The MAPP Penalty: In its brief after the close of testimony, Interstate alluded to a MAPP penalty for failure to maintain a 15 percent reserve. The Company apparently did so to add weight to its case for allowing all the costs under the three long term power purchase contracts. In its petition for reconsideration, the Company acknowledged that it provided no record evidence regarding the size or conditions of the MAPP penalty but argued that the Commission erred in not using its expertise and knowledge as a substitute for such lack of evidence. In fact, the specifics of the MAPP penalty are not the kind of information that is properly incorporated into a rate case proceeding under the "Commission expertise" rubric and taking administrative notice about the penalty would be highly improper at this stage of the proceedings. Moreover, in light of the fact that the Company did not bother to introduce information about the penalty into the record it would appear that the penalty was not a major concern to the Company in formulating its request and was added to its brief as an unsubstantiated make-weight argument. The Company cannot complain when the argument is treated accordingly.

Summary: The Company has failed to demonstrate that 100 MW of the capacity purchased under the long-term purchase power contracts will be used and useful. Accordingly, the Commission's finds no reason to reconsider and change its decision to deny the Company's request to recover in rates the costs associated with that amount of capacity (100 MW) under the long-term purchased power contracts.

ORDER

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[2] The record does not establish the likelihood that the Company will experience (in the next three years) a peak equal to the 1995 peak let alone experience another 92 MW increase in peak load.

1. The Request for Rehearing and Reconsideration filed April 29, 1996 by Interstate Power Company in this matter is denied.

2. The Petition for Reconsideration filed April 29, 1996 by the Minnesota Department of Public Service is denied.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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